

## REMARKS

Claims 49, 52, and 62-83 are currently pending.

### **Claim Rejections Under 35 U.S.C. §102(b)**

Claims 49, 62-70 were rejected as being unpatentable over Shinada (US 5,436,875). In response, Applicant has amended claims 49, 63 and 70

In particular, amended claim 49 now recites a method comprising:  
receiving from an optical disk player device, first audio data  
streamed from a first audio optical disk file being processed by the optical  
disk player device;  
incrementally storing the first audio data onto a storage starting at a  
first point corresponding to a beginning of the first audio optical disk file,  
the first audio data being received and stored at a first rate, and the  
storage being separate and distinct from the audio optical disk file as well  
as the optical disk player device; and  
incrementally playing at least some of the stored first audio data at  
a playback rate lower than the first rate, prior to completion of prior to  
completion of the storing of all the first audio data.

Accordingly, claim 49 now clearly requires among other things, the limitation of *incrementally playing at least some of the stored first audio data, prior to completion of the storing of all the first audio data*, where the *first audio data* are received from an *optical disk player device (streamed from an audio disk file being processed by the player device)*, and stored onto a storage that is separate and distinct from the audio optical disk file as well as the optical disk player device.

It is well settled that 102 rejection requires the prior art to anticipate each and every required elements of the invention being claimed, and that the anticipating element is identical to the anticipated elements.

For claim 49, applicant submits that the “at least *incrementally playing at least some of the stored first audio data, prior to completion of the storing of all the first audio data, ...*” limitation noted above is not anticipated.

In rejecting claim 49, the Examiner relied on Shinada's disclosure in column 11 as having anticipated this element. However, under the cited passage, Shinada was merely referring to the audio data recorded onto the optical disk 2 (through mic 9, encoder 16, memory 18 etc) can be reproduced immediately for listening (through memory 22, decoder 24, and output terminal 26). These audio data are *not audio data received from an optical disk player device (streamed from an optical disk file of the player device) and incrementally stored onto a storage that is separate and distinct from the optical disk file and the optical disk player device.*

Therefore, for at least this reason, claim 49 is patentable over Shinada.

Claims 62-70 depend on claim 49 incorporating its limitations. Therefore, for at least the same reason, claims 62-70 are patentable over Shinada.

Claims 52, 71-79 and 80-83 were rejected for being obvious in view of Shinada.

Independent claims 52 and 80 include in substance the same limitation discussed above for claim 49. Therefore, for at least the same reason, claims 52 and 80 are not anticipated by Shinada.

Additionally, Shinada provided no suggestion nor motivation to one of ordinary skill in the art to modify Shinada to arrive at the invention being claimed, thus, claims 52 and 80 are not obvious in view of Shinada, and therefore, patentable.

Claims 71-79 and 82-83 depend on claims 52 and 80, incorporating their limitations respectively. Thus, for at least the same reasons, claims 71-79 and 82-83 are not obvious in view over Shinada, and therefore, patentable.


## **CONCLUSION**

In light of the above amendments and remarks, this application is now in condition for allowance. Early issuance of Notice of Allowance is respectfully requested. The Examiner is encouraged to telephone the undersigned if there are any remaining questions of patentability, and a telephone interview would be helpful in resolving these questions.

Please charge any shortages and credit any overages of fees to Deposit Account No. 500393.

Respectfully submitted,  
SCHWABE, WILLIAMSON & WYATT, P.C.

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Al AuYeung  
Registration No. 35,432

Pacwest Center, Suites 1600-1900  
1211 SW Fifth Avenue  
Portland, Oregon 97204  
Telephone: 503-222-9981